

State of South Dakota

SEVENTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2000

925D0305

HOUSE ENGROSSED NO. **HB1064** - 1/27/00

Introduced by: Representatives Hennies, Brooks, Brown (Richard), Duniphan, Fitzgerald, Lintz, McCoy, McIntyre, Munson (Donald), and Wilson and Senators Ham, Albers, Brosz, Lawler, Madden, Reedy, Shoener, Staggers, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the procurement,
2 collection, filing, and analysis of biological specimens from persons convicted of crimes of
3 violence.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 23-5-14 be amended to read as follows:

6 23-5-14. The attorney general shall procure and file for record genetic marker grouping
7 analysis information from any person convicted of a ~~violation of the provisions of chapter 22-22.~~
8 ~~The attorney general also shall procure and file for record such genetic marker grouping analysis~~
9 ~~information of any person confined in any workhouse, jail, reformatory, penitentiary or other~~
10 ~~penal institution or otherwise under supervision for a violation of the provisions of chapter 22-22~~
11 sex crime pursuant to chapter 22-22 or a crime of violence as defined in § 22-1-2. The attorney
12 general also shall cooperate with and assist corrections officers, sheriffs, chiefs of police, and
13 other law enforcement officers to the end that a complete state system of genetic marker
14 grouping analysis information may be established. ~~Sheriffs, chiefs of police, and any other law~~
15 ~~enforcement officers of the state~~ The Department of Corrections, immediately upon the
16 ~~conviction~~ attaining custody of any person for a ~~violation of the provisions of chapter 22-22~~

1 conviction of a crime of violence as defined in § 22-1-2 or a conviction of a sex crime pursuant
2 to chapter 22-22, shall arrange for collection of ~~blood and saliva~~ biological specimens for genetic
3 marker grouping analysis according to the system established by the Division of Criminal
4 Investigation and, ~~upon the person's conviction,~~ shall forward any such specimen to the division
5 for classification and filing. If the court does not sentence a person convicted of a sex crime
6 pursuant to chapter 22-22 or a person convicted of a crime of violence as defined in § 22-1-2 to
7 the Department of Corrections, the court shall order the convicted person to immediately report
8 to a law enforcement agency for the collection of a biological specimen for genetic grouping
9 analysis.

10 Section 2. That § 23-5-16 be amended to read as follows:

11 23-5-16. The Division of Criminal Investigation shall provide equipment and instructions as
12 necessary for collection of ~~blood and saliva~~ biological specimens pursuant to this chapter. Such
13 collection of specimens shall be performed in a medically approved manner. Only a physician,
14 laboratory technician, registered nurse, physician's assistant, phlebotomist, expanded role
15 licensed practical nurse, certified nurse practitioner, medical technician, or medical technologist
16 may withdraw blood ~~or saliva~~ for the purpose of genetic marker grouping analysis. Other
17 persons, such as corrections officers or law enforcement officers, after being trained, may
18 withdraw an alternative biological specimen in accordance with a procedure provided by the
19 Division of Criminal Investigation. The Office of the Attorney General shall promulgate rules,
20 pursuant to chapter 1-26, to identify the types of biological specimens which, based on
21 evidentiary value, may be procured and the procedures by which the biological specimens may
22 be procured. Any such authorized person, acting on the presumption of consent, or any hospital
23 employing such person, is not liable and may not be held to pay damages to the party from whom
24 the ~~blood or saliva~~ biological sample is withdrawn, if the withdrawal is administered with usual
25 and ordinary care. Any such specimen shall be forwarded to the Division of Criminal

- 1 Investigation for analysis and categorization into genetic marker groupings. Such genetic marker
- 2 groupings shall be maintained by the Division of Criminal Investigation. The division may
- 3 contract with private entities for such specimen analysis and categorization.

1 **BILL HISTORY**

2 1/14/00 First read in House and referred to Judiciary. H.J. 47

3 1/19/00 Scheduled for Committee hearing on this date.

4 1/21/00 Scheduled for Committee hearing on this date.

5 1/21/00 Judiciary Do Pass Amended, Passed, AYES 11, NAYS 2. H.J. 188

6 1/26/00 Motion to Amend, Passed. H.J. 248

7 1/26/00 House of Representatives Do Pass Amended, Passed, AYES 65, NAYS 3. H.J. 248